

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

John L. Smith,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 13-77-0262
Parcel No. 180/00808-000-000

On February 4, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant John L. Smith was self-represented. Assistant County Attorney David Hibbard represented the Board of Review. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

John L. Smith is the owner of property located at 7725 NE 19th Lane, Ankeny, Iowa. The real estate was classified residential as of January 1, 2013, and valued at \$167,600, representing \$14,300 in land value and \$153,300 in improvement value. Smith protested to the Board of Review on the grounds that the property's assessment was not equitable compared to like properties in the taxing jurisdiction and that there was an error in the assessment under Iowa Code sections 441.37(1)(a)(1) and (4).

Smith's error claim is that his garage is 1280 square feet, not the 1728 square feet listed on the property record card, and his assessment should be reduced accordingly. The Board of Review appraiser inspected and re-measured the garage and found no measurement error. The 1728 square feet listed included the square footage of the garage (1280) and the attached enclosed porch (448). The Board of Review denied the protest.

Smith then appealed to this Board on his equity claim. He believes \$149,800, representing \$14,300 in land value and \$135,500 in improvement value is the correct assessment value.

According to the property record card, the subject property is a one-story modular home with 1400 total square feet of living area and a full, unfinished basement built in 2001. The dwelling has an average quality grade (4+00) and is listed in normal condition. The Assessor gave adjustments of 5% for physical depreciation and 10% for functional obsolescence to the dwelling. It also has a 1280 square-foot detached garage, a patio, and a 448 square-foot, enclosed porch. Similarly, the Assessor adjusted the garage 9% for physical depreciation. Its site is 0.608-acres.

Smith claims his property is inequitably assessed and relies on his comparison of two neighboring properties' assessments. First, Smith compares the subject to 7675 NE 19th Lane, which is assessed at \$149,900, or \$17,700 less than the subject. 7675 NE 19th Lane is a larger, modular home built in 1995 with 1568 total square feet of living area. The Assessor applied an 8% adjustment for physical depreciation and a 14% functional obsolescence to the dwelling. It also has two insulated, detached pole buildings totaling 2160 square feet built in 1996 and 2003. The site is only slightly larger than Smith's site.

As compared to the subject, 7675 NE 19th Lane does not have an enclosed porch, garage, or patio. According to the market-adjusted cost report for this property, the combined depreciated replacement cost of its pole buildings is \$21,318. The market-adjusted cost of Smith's garage is \$21,704. Additionally, the value of Smith's enclosed porch, which serves as a breezeway to his detached garage, is added to the value of his dwelling. The cost report value of the enclosed porch is \$18,637, before depreciation and the obsolescence adjustment. This accounts for a substantial portion of the difference between the subject property's assessment and the assessment of 7675 NE 19th Lane.

Second, Smith testified the property located at 1940 NE 76th Place should have a lower assessment than the property at 7675 NE 19th Lane. 1940 NE 76th Place is assessed at \$156,000,

roughly \$6000 more than 7675 NE 19th Lane. The two properties have the same total square feet of living area, but 1940 NE 76th Place has a double lot of 0.970-acres which results in a \$7000 higher land assessment than 7675 NE 19th Lane. It also has a 720 square foot detached garage with a market-adjusted depreciated cost of \$10,757, a deck, a fireplace, and the dwelling is a slightly higher grade (4+05). Again, these features account for the difference in assessments.

In order to prevail on an equity claim it is necessary to provide recent sales of comparable properties and their assessments to develop an assessment/sales ratio. The properties Smith identified for comparison did not have recent sale information. The evidence shows the assessor applied uniform assessing methods to the subject and compared properties and the assessment differences are related to variations in features and amenities among the properties. The record does not support Smith's claim of inequitable assessment.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

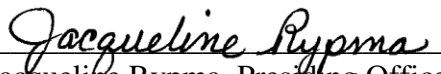
Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

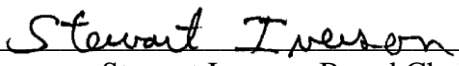
Smith did not provide any comparable sales data to conduct an assessment/sales ratio analysis as contemplated by *Maxwell*. The evidence shows the variance in assessments among Smith's comparables can be attributed to differences in amenities and property features. Smith did not prove

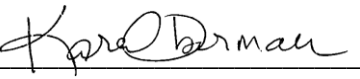
by a preponderance of the evidence that his property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

THE APPEAL BOARD ORDERS that the January 1, 2013, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 26th day of February, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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